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Avery Dennison Corporation			EXAMINER	
Amanda Wittine			NORDMEYER, PATRICIA L	
8080 Norton Parkway				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL E. HANNINGTON

Appeal 2009-006928
Application 10/596,659
Technology Center 1700

Before MICHAEL P. COLAIANNI, ADRIENE LEPIANE HANLON, and
MARK NAGUMO, *Administrative Patent Judges*.

HANLON, *Administrative Patent Judge*.

DECISION ON APPEAL

A. STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134 from an Examiner's decision rejecting claims 1-21 and 55-57 under 35 U.S.C. § 102(b) as anticipated by Hannington.^{1,2} We have jurisdiction under 35 U.S.C. § 6(b).

We REVERSE.

¹ WO 01/81080 A1 published November 1, 2001.

² Claims 45-54 are also pending but have been withdrawn from consideration.

Claim 1, reproduced below, is illustrative of the subject matter on appeal.

1. An adhesive article comprising:

a release liner comprising a release surface, a molding layer and a second surface;

a continuous layer of adhesive having a first surface, a second surface and end edges, wherein the first surface of the adhesive is adhered to the release surface of the release liner;

a first pattern of first non-adhesive material forms having a first surface and a second surface; and

a second pattern of second non-adhesive material forms having a first surface and a second surface, *wherein the second pattern partially overlaps the first pattern*; at least one of the first and second patterns is at least partially embedded in the release surface and molding layer of the release liner; the first surface of each of the two patterns is in contact with the release surface of the release liner, the second surface of each of the two patterns is in contact with the adhesive layer; and the first surface of at least a portion of the first pattern of non-adhesive material forms is in a plane that is different from the plane of the first surface of at least a portion of the second pattern of non-adhesive material forms.

App. Br., Claims Appendix (emphasis added).³

B. ANALYSIS

The Appellant argues, *inter alia*, that Hannington does not disclose a first pattern of a first non-adhesive material forms and a second pattern of a second non-adhesive material forms wherein the second pattern partially overlaps the first pattern. App. Br. 8.

³ Appeal Brief dated October 17, 2008.

The Examiner contends that Hannington discloses this feature and refers to paragraph [30] and claims 1 and 22 of Hannington for support. Ans. 3, 5.⁴ In particular, the Examiner explains that “[t]he example listed in Paragraph 30 is the combination of a grid of intersecting lines with random or patterned dots.” Ans. 6.

“To anticipate a claim, a prior art reference must disclose every limitation of the claimed invention, either explicitly or inherently.” *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997).

In this case, Hannington discloses:

The non-adhesive material is generally present in *a pattern*. . . . The pattern may be a grid of intersecting lines, a weave pattern, a waffle pattern, diagonal straight and curved lines, tiled geometric figures, such as hexagons, rectangles, overlapping circles or triangles, or lines in a cross hatch pattern. Combinations of patterns may be used such as a grid of intersecting lines with random or patterned dots.

Hannington, para. [30] (emphasis added).

Significantly, the Examiner does not direct us to any disclosure in Hannington describing, within the meaning of 35 U.S.C. § 102, a second pattern that partially overlaps a first pattern as recited in the claims on appeal. Paragraph [30] of Hannington indicates that combinations of patterns may be used but does not disclose that the patterns may overlap one another. Likewise, Hannington claim 22 refers to two patterns of non-adhesive material, but the claim does not recite that the two patterns overlap each other.

For these reasons, the § 102(b) rejection on appeal will not be sustained.

⁴ Examiner’s Answer dated November 25, 2008.

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Application 10/596,659

C. DECISION

The decision of the Examiner is reversed.

REVERSED

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Avery Dennison Corporation
Amanda Wittine
8080 Norton Parkway
22-D
Mentor, OH 44060